

1 **BEFORE THE BOARD OF MEDICAL EXAMINERS**
2 **OF THE STATE OF NEVADA**

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4
5 **In the Matter of Charges and Complaint**

Case No. 24-42281-1

6 **Against:**

FILED

7 **DAVID KAYLE McCLEVE, PA-C**

NOV 22 2024

8 **Respondent.**

NEVADA STATE BOARD OF
MEDICAL EXAMINERS
By: _____

9
10 **COMPLAINT**

11 The Investigative Committee¹ (IC) of the Nevada State Board of Medical Examiners (Board),
12 by and through Deonne E. Contine, General Counsel and attorney for the IC, having a reasonable
13 basis to believe that David Kayle McCleve, PA-C (Respondent) violated the provisions of Nevada
14 Revised Statutes (NRS) Chapter 630 and Nevada Administrative Code (NAC) Chapter 630
15 (collectively, the Medical Practice Act), hereby issues its Complaint, stating the IC's charges and
16 allegations as follows:

17 1. Respondent was at all times relative to this Complaint a physician assistant holding an
18 active license to practice medicine in the State of Nevada (License No. PA1526). Respondent was
19 originally licensed by the Board on April 14, 2014.

20 2. Patient A² was a fifty-one (51) year-old male at the time of the events at issue.

21 3. On April 8, 2023, during his shift as an Emergency Department PA, Respondent
22 injected Patient A with Botulinum toxin at a location within the emergency department at North
23 Vista Hospital.

24 4. Patient A was not registered with North Vista Hospital at the time of the procedure
25 and Respondent treated Patient A and performed the injection without the knowledge or permission
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27 ¹ The Investigative Committee of the Nevada State Board of Medical Examiners, at the time this formal
28 Complaint was authorized for filing, was composed of Board members Nick M. Spirtos, M.D., F.A.C.O.G., Ms. Maggie
Arias-Petrel (Public Member), and Carl N. Williams, Jr., M.D., FACS.

² Patient A's true identity is not disclosed herein to protect his privacy but is disclosed in the Patient
Designation served upon Respondent along with a copy of this Complaint.

1 of his employer Superior Emergency Physicians, North Vista Hospital, or emergency department
2 staff.

3 5. Respondent did not have a supervising physician overseeing and ensuring his
4 competence to perform cosmetic procedures at the time he injected Patient A with Botulinum toxin.

5 6. Respondent did not create any medical documentation of his care or treatment of
6 Patient A prior to injecting him with Botulinum toxin.

7 7. Records show that on April 8, 2023, less than one (1) hour after the procedure,
8 Patient A was found unresponsive in the North Vista Hospital parking lot. Patient A was wheeled
9 into the emergency room in an altered mental state, intubated for airway protection, and transferred
10 by ambulance to Sunrise Hospital for a higher level of care.

11 **COUNT I**

12 **NRS 630.301(4) - Malpractice**

13 8. All of the allegations contained in the above paragraphs are hereby incorporated by
14 reference as though fully set forth herein.

15 9. NRS 630.301(4) provides that malpractice of a physician assistant is grounds for
16 initiating disciplinary action against a licensee.

17 10. NAC 630.040 defines malpractice as “the failure of a physician, in treating a patient,
18 to use the reasonable care, skill, or knowledge ordinarily used under similar circumstances.”

19 11. As demonstrated by, but not limited to, the above-outlined facts, Respondent failed
20 to use the reasonable care, skill or knowledge ordinarily used under similar circumstances when
21 rendering medical services to Patient A when he injected Patient A with Botulinum toxin sometime
22 during his emergency department shift at North Vista Hospital, did not conduct a medical
23 examination or history, and failed to create any medical documentation related to his treatment of
24 Patient A.

25 12. By reason of the foregoing, Respondent is subject to discipline by the Board as
26 provided in NRS 630.352.

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1 COUNT II

2 **NRS 630.3062(1)(a) - Failure to Maintain Complete Medical Records**

3 13. All of the allegations contained in the above paragraphs are hereby incorporated by
4 reference as though fully set forth herein.

5 14. NRS 630.3062(1)(a) provides that the “failure to maintain timely, legible, accurate
6 and complete medical records relating to the diagnosis, treatment and care of a patient” constitute
7 grounds for initiating discipline against a licensee.

8 15. Respondent did not document any part of the Botulinum toxin treatment he
9 performed on Patient A. Thus, Respondent failed to maintain complete medical records relating to
10 the diagnosis, treatment and care of Patient A in a timely, legible, accurate, and complete manner.

11 16. By reason of the foregoing, Respondent is subject to discipline by the Board as
12 provided in NRS 630.352.

13 COUNT III

14 **NRS 630.306(1)(b)(2) - Violation of Standards of Practice Established by Regulation**

15 17. All of the allegations contained in the above paragraphs are hereby incorporated by
16 reference as though fully set forth herein.

17 18. Violation of a standard of practice adopted by the Board is grounds for disciplinary
18 action pursuant to NRS 630.306(1)(b)(2).

19 19. NAC 630.340(2) prohibits a physician assistant from providing medical services
20 until he has provided to the Board, on a form prescribed by the Board and signed by both the
21 physician assistant and the supervising physician, and which also notes the portion of the practice
22 of the physician assistant that the supervising physician supervises (“Supervision Agreement”).

23 20. Respondent violated NAC 630.340(2) when he did not have a Supervision
24 Agreement on file for the provision of the services described in paragraphs 3, 4, and 5 with the
25 Board at the time he injected Patient A with Botulinum toxin.

26 21. By reason of the foregoing, Respondent is subject to discipline by the Board as
27 provided in NRS 630.352.

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COUNT IV

NRS 630.306(1)(e) - Practice Beyond Scope of License

22. All of the allegations contained in the above paragraphs are hereby incorporated by reference as though fully set forth herein.

23. NRS 630.306(1)(e) provides that practicing or offering to practice beyond the scope permitted by law constitutes grounds for initiating disciplinary action.

24. Respondent practiced beyond the scope permitted by law when he injected Patient A with Botulinum toxin at a location within the emergency department at North Vista Hospital because he was not authorized by his supervising physician to provide such treatment. See NRS 630.271.

25. By reason of the foregoing, Respondent is subject to discipline by the Board as provided in NRS 630.352.

WHEREFORE, the Investigative Committee prays:

1. That the Board give Respondent notice of the charges herein against him and give him notice that he may file an answer to the Complaint herein as set forth in NRS 630.339(2) within twenty (20) days of service of the Complaint;

2. That the Board set a time and place for a formal hearing after holding an Early Case Conference pursuant to NRS 630.339(3);

3. That the Board determine what sanctions to impose if it determines there has been a violation or violations of the Medical Practice Act committed by Respondent;

4. That the Board award fees and costs for the investigation and prosecution of this case as outlined in NRS 622.400;

5. That the Board make, issue and serve on Respondent its findings of fact, conclusions of law and order, in writing, that includes the sanctions imposed; and

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6. That the Board take such other and further action as may be just and proper in these premises.

DATED this 21st day of November, 2024.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: Deonne E. Contine

DEONNE E. CONTINE
General Counsel
9600 Gateway Drive
Reno, NV 89521
Tel: (775) 688-2559
Email: dcontine@medboard.nv.gov
Attorney for the Investigative Committee

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VERIFICATION

STATE OF NEVADA)
 : ss.
COUNTY OF CLARK)

Nick M. Spirtos, M.D., F.A.C.O.G., having been duly sworn, hereby deposes and states under penalty of perjury that he is the Chairman of the Investigative Committee of the Nevada State Board of Medical Examiners that authorized the Complaint against the Respondent herein; that he has read the foregoing Complaint; and that based upon information discovered in the course of the investigation into a complaint against Respondent, he believes that the allegations and charges in the foregoing Complaint against Respondent are true, accurate and correct.

DATED this 21st day of November, 2024.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: 

NICK M. SPIRTOS, M.D., F.A.C.O.G.
Chairman of the Investigative Committee